

JULY 21, 2008MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAWN PAJOWSKI MENOR,)
Plaintiff,)
v.) No. 08 C 1370
UNITED STATES OF AMERICA,) JURY TRIAL DEMANDED
Defendant.)

FIRST AMENDED COMPLAINT AT LAW

NOW COMES the plaintiff, **DAWN PAJOWSKI MENOR**, by and through her attorney, Christopher T. Theisen of the law firm of Theisen & Roche, Ltd. and complaining against the defendant, **UNITED STATES OF AMERICA**, states as follows:

1. This action arises under the Federal Tort Claims Act, 28 U.S.C. §2671 et. seq. and this Court has jurisdiction under the provisions of 28 U.S.C. §1346(b).
2. Plaintiff is a citizen of the State of Florida. The Department of Homeland Security, Transportation Security Administration (hereinafter “TSA”), is an agent of defendant, United States of America, and is responsible for security and screening of passengers at airports nationwide, with its principal claims office in Arlington, Virginia. The matter in controversy exceeds, exclusive of interests and costs, the minimal jurisdictional sum specified by 28 U.S.C. §1332.
3. Plaintiff filed an administrative claim with defendant’s agent, TSA, on or about June 28, 2006. Defendant, through its agent TSA, never sent by certified or registered mail a final written denial of plaintiff’s claim as required under 28 U.S.C.A. §2675(a). Because it has

been more than six months since plaintiff has filed her administrative claim, plaintiff is now entitled to institute this action pursuant to 28 U.S.C.A. §2675(a).

4. Jurisdiction is proper pursuant to 28 U.S.C. §1402(b). Venue is also proper under 28 U.S.C. §1391 because plaintiff has suffered injury in the City of Chicago, County of Cook, State of Illinois.

5. On January 26, 2005, plaintiff was an airline passenger proceeding through the security screening checkpoint at Midway Airport in Chicago Illinois, operated and staffed by defendant, United States of America, and its agent, TSA. At that time, Francisco Partida, a security screener, was acting within the course and scope of his employment with defendant's agent, TSA.

6. On January 26, 2005, plaintiff, while at Midway Airport in Chicago, Illinois, was proceeding through the security screening process and metal detectors. At that time, TSA employee or agent, Francisco Partida, acting within the course and scope of his duties as an employee and agent of defendant, was handling the plastic screening trays adjacent to plaintiff and, without warning, dropped one or more loaded plastic trays onto the wrist, hand and arm of plaintiff, Dawn Pajowski Menor, causing serious and permanent injuries.

7. At all times herein, defendant and defendant's agent or employee, Francisco Partida, owed plaintiff, Dawn Pajowski Menor, the following duties:

- (a) to refrain from careless conduct which could cause harm and injury to plaintiff;
- (b) to properly and safely screen plaintiff's personal belongings so as not to create a dangerous or harmful condition;
- (c) to properly train and supervise its employees so as not to harm plaintiff or other passengers;

- (d) to warn plaintiff and other passengers as to dangerous or hazardous conduct;
- (e) to carefully handle the plastic screening trays to avoid causing injury to passengers such as plaintiff subject to security screening; and
- (f) any other further duty which may be revealed through discovery.

8. As a direct and proximate result of one or more of the above breaches of duty by defendant, through its agent's employee, Francisco Partida, plaintiff, Dawn Pajowski Menor, was caused to sustain injuries to her hand, finger, wrist and arm and was otherwise injured, was, and continues to be, prevented from her normal gainful employment, suffered, and continues to suffer, great pain of body and mind, and incurred, and continues to incur, expenses for medical attention and surgery.

WHEREFORE, plaintiff, **DAWN PAJOWSKI MENOR**, demands judgment against defendant, **UNITED STATES OF AMERICA**, in an amount in excess of **ONE HUNDRED EIGHTY-FIVE THOUSAND AND 00/100 DOLLARS (\$185,000.00)**, for past and future medical expenses, lost wages, loss of future wages, pain and suffering, costs of this matter, and any other relief that is deemed appropriate.

Respectfully submitted

THEISEN & ROCHE, LTD.

By:/S/ Christopher T. Theisen
Christopher T. Theisen
Attorney for Plaintiff

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